s.21(1)(a)

Department of Justice Canada / Ministère de la Justice Canada

s.21(1)(b)

FOR INFORMATION
NUMERO DU DOSSIER/FILE #: 2016-019769
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: Criminal Justice System Review: Update

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- You are meeting with Justice officials on October 4, 2016, to discuss the criminal justice system review. Attached at Annex 1 is a deck to support this conversation. You will be asked for direction and, if appropriate, decisions on the current approach.
- You have recently hosted five roundtables across the country regarding the criminal justice system review. The Department will be moving forward on further actions and initiatives to support your review.
- [redacted]

Soumis par (secteur)/Submitted by (Sector): Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team: Caroline Leclerc

Revue dans l'ULM par/Edited in the MLU by: Sarah McCulloch

Soumis au CM/Submitted to MO: 29 September 2016

s.21(1)(a)

s.21(1)(b)

Department of Justice Canada | Ministère de la Justice Canada

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FOR INFORMATION

2016-019769

MEMORANDUM FOR THE MINISTER

Criminal Justice System Review: Update

ISSUE

You are meeting with Justice officials on October 4, 2016, to discuss the criminal justice system review. Attached at Annex 1 is a deck to support this conversation.

BACKGROUND

Over the last two months, you hosted roundtables across the country that provided you with an opportunity to receive input and advice from a diversity of perspectives on the direction, approach, and some key reforms that a review of the criminal justice system should take. The Department will be moving forward on further actions and initiatives to support the review of the criminal justice system.

CONSIDERATIONS

You have completed five roundtables and four are currently planned. The roundtable activities have been successful and you have heard a range of views and perspectives on the criminal justice system. Justice officials have identified upcoming events that would provide you with an opportunity to launch your review or to deliver remarks.

CONCLUSION

Attached at Annex 1 is a deck to support this conversation.

ANNEX

Annex 1: Criminal Justice System Review: Update

PREPARED BY
Katie Scrim
Analyst
Criminal Justice System Review
613-941-4041

ANNEX 1

CANADA'S LEGAL TEAM
L'ÉQUIPE JURIDIQUE DU CANADA

Criminal Justice System Review: Update

Meeting with Minister Wilson-Raybould and Officials

PURPOSE

- To seek your direction on the forward plan, activities and deliverables relating to the Criminal Justice System Review:

A. Engagement activities and opportunities

B. The Criminal Justice System Review [redacted]

C. Key deliverables and timelines

Annex A: [redacted]
Annex B: [redacted]

A_1. Engagement Activities – Ministerial

- Roundtables with partners/stakeholders:
  - DONE: Toronto, Charlottetown, Vancouver (2), Edmonton
  - PLANNED: Moncton, FPT Ministers, Halifax (2), Toronto
  - AHEAD: Saskatchewan, Quebec, Territories, Manitoba, Newfoundland
- Ministerial speaking engagements provide the opportunity to make significant statements on the Review, to expand on your vision and plans for the Review:
  - Criminal Lawyers Association (Oct 2016)
  - Restorative Justice Conference (Nov 2016)
  - National Justice Symposium (Jan 2017)

A_2. Significant Public Engagement - opportunities

For the Review efforts to succeed, significant public and key constituency input and support is needed. The public needs to see the opportunity and possibility of doing something beyond updating and reporting.

s.21(1)(a) s.21(1)(b)

B_1. Criminal Justice System Review

[redacted]

s.69(1)(g) re (e)

[redacted]

s.21(1)(a) s.21(1)(b)

B_2. Criminal Justice System Review

B_3. Purpose and Principles of the Criminal Justice System

- Update the purpose/principles:
  - Provide a foundation for future law and procedural reforms, program and policy initiatives, and research.
  - Under the scope of the criminal justice system, statements of principles for discrete areas of focus be developed, starting with the criminal law, and followed by restorative justice, corrections, and others.

C_1. CJSR Strategy and Narrative

- The CJSR narrative and what the broad strategy intends to achieve is not widely known.
- Value statement: A just, peaceful, and safe society depends on a fair, relevant and accessible criminal justice system that is compassionate to victims and holds serious offenders to account.
- [redacted]

C_2. Key deliverables

- The CJSR has started a National Conversation on the Criminal Justice System and it is gaining momentum. [redacted]

[redacted]

Annex A_1

[redacted]

s.21(1)(a) s.21(1)(b)

[redacted]

Annex A_2 [redacted]

[redacted]

Annex B

Pages 17 to / à 18

are withheld pursuant to sections

sont retenues en vertu des articles

14, 21(1)(a), 21(1)(b), 23

of the Access to Information Act

de la Loi sur l'accès à l'information

SERVING CANADIANS

DEPARTMENT OF JUSTICE

National Anti-Drug Strategy and Background on *Rebalancing, Strengthening and Rebranding Canada's Drug Strategy*

for

Minister of Justice and Attorney General of Canada

September 2016

Table of Contents

Background: National Anti-Drug Strategy (NADS)

- Through the National Anti-Drug Strategy (NADS), the Government of Canada aims to *"contribute to safer and healthier communities through coordinated efforts to prevent use, treat dependency and reduce production and distribution of illicit drugs"*. The focus is on illicit drugs and prescription drugs.
- The NADS is a horizontal initiative, led by the Department of Justice Canada and involving 12 other federal departments (Annex 1).
- Since its launch in 2007, the Government of Canada has spent more than $780 million through programs under the NADS (Annex 2).
- Drug policy, including the NADS, is linked to the Government of Canada's *Security and Opportunity* agenda.
- [redacted]

s.69(1)(g) re (a)

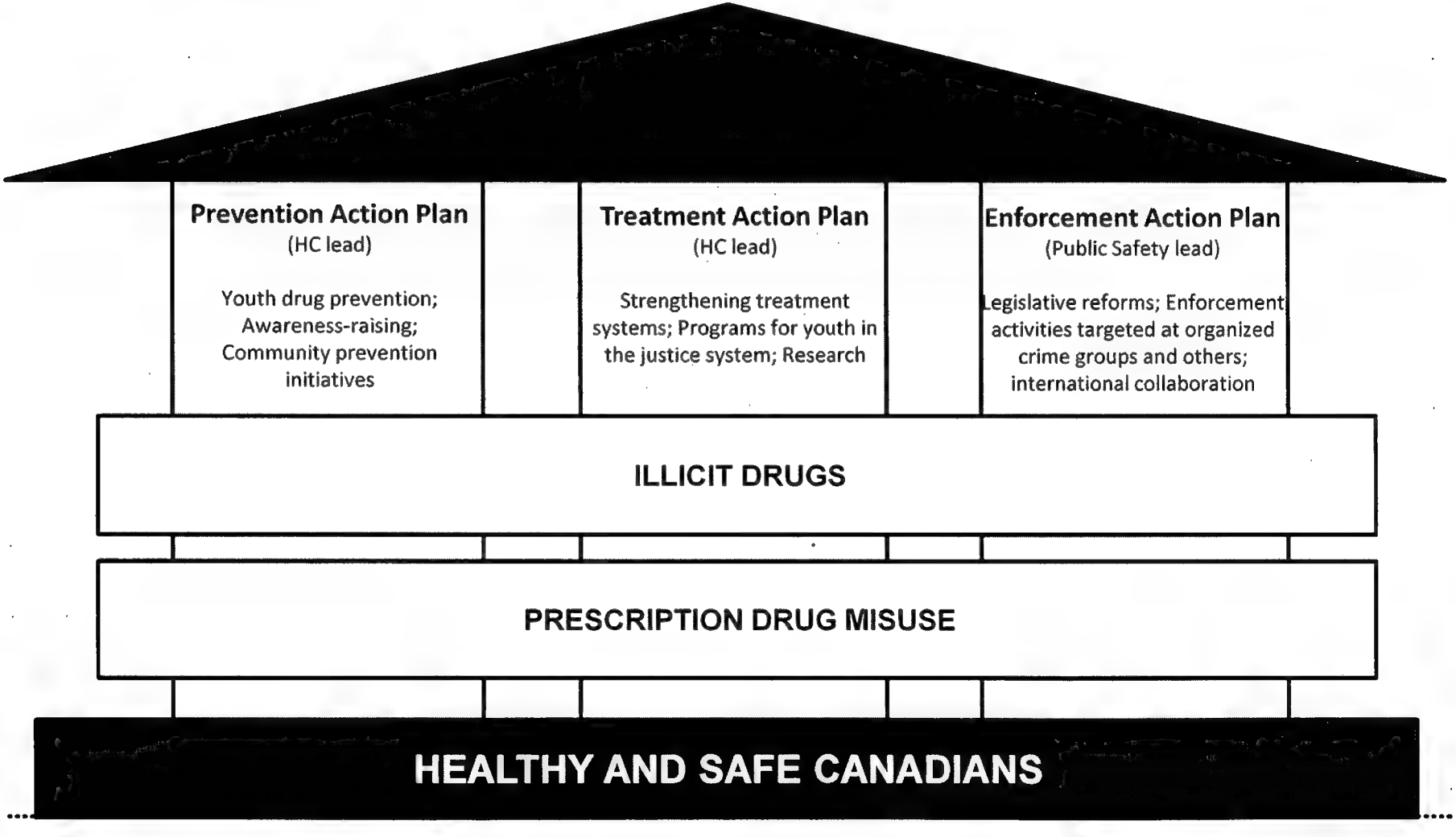
Background: Drug Situation in Canada

- **Cannabis** - top consumed drug in Canada; top consumed illicit substance globally.
  - The number of youth (22%) and young adults (26%) who used cannabis in 2013 was more than two and a half times that of adults 25 and older (8%).
  - In 2013, there were 109,000 police reported drug **offences,** 79,000 of which involved cannabis.

- Canada is the second largest consumer of **prescription opioids** (after the US) in the world. Deaths related to opioid use are increasing in some parts of the country.
  - Overdoses and deaths related to **fentanyl** are a public health crisis in some regions, e.g., B.C., where deaths increased by 72% in the first half of 2016, as compared to the first half of 2015, Alberta, parts of Atlantic Canada and Ontario.

More background information is provided in Annex 3.

NADS: Existing Programs and Priorities



[redacted]

[redacted]

[redacted]

Next Steps on Drug Policy

s.69(1)(g) re (d)

- [redacted] implementation of the NADS continues through prevention, treatment and enforcement activities.
- An evaluation of the NADS will be completed by the end of its second five-year reporting cycle in March 2017.
- International drug policy discussions are ongoing, e.g., through the G-8, North American Leaders' Summit, the Organization of American States' Inter-American Drug Abuse Control Commission and the UN Commission on Narcotic Drugs.
- As the lead federal department for the NADS, Justice Canada continues to lead governance, policy development, evaluation, reporting, communications, criminal justice reforms and programs (Drug Treatment Court Funding Program and Youth Justice Fund – anti-drug component).

[redacted]

Annex 1: NADS Partners

- The NADS is led by Justice Canada* in cooperation with 12 other federal departments and agencies:
  - Health Canada (HC)
  - Canadian Institutes of Health Research (CIHR)
  - Public Safety Canada (PSC)
  - Royal Canadian Mounted Police (RCMP)
  - Correctional Service Canada (CSC)
  - Parole Board of Canada (PBC)
  - Public Prosecution Service of Canada (PPSC)
  - Canada Border Services Agency (CSBA)
  - Global Affairs Canada (GAC)
  - Canada Revenue Agency (CRA)
  - Public Services and Procurement Canada (PSPC)
  - Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)

* *Leadership of the NADS includes: leading and coordinating policy development and criminal justice reforms; maintaining the governance structure; and leading communications, evaluation and reporting. Justice Canada also leads two NADS programs: Drug Treatment Court Funding Program; and Youth Justice Fund (anti-drug component).*

Annex 2: The NADS' Action Plans

Prevention Action Plan

- Supports efforts to prevent youth from using illicit drugs and funds the development and implementation of community-based interventions to prevent illicit drug use.
- Programs include:
  - Anti-Drug Strategy Initiatives Fund – grants and contributions to support community-based programs (HC)
  - Prescription drug abuse awareness campaign (HC)
  - Awareness and training workshops (RCMP)

Treatment Action Plan

- Supports effective treatment and rehabilitation systems through community-based programs.
- Programs include:
  - Anti-Drug Strategy Initiatives Fund (HC)
  - National Native Alcohol and Drug Abuse Program (HC)
  - Research on addiction treatment (CIHR)
  - Youth Justice Fund – drug treatment component (Justice Canada)
  - Drug Treatment Court Funding Program (Justice Canada)

Annex 2: The NADS' Action Plans cont'd

Enforcement Action Plan

- Contributes to the disruption of illicit drug operations in a safe manner, particularly targeting criminal organizations.
- Programs include:
  - National policy coordination to improve intelligence, research and evaluation (PS)
  - Legal advice and prosecution services (PPSC)
  - Ensuring that controlled substances are not diverted for illegal use (HC)
  - Drug enforcement, criminal intelligence, and technological support (RCMP)
  - Addressing cross-border smuggling of illicit drugs; researching new analytical techniques and deploying new detection technologies (CBSA)
  - Audits of those suspected of deriving income earned from illicit production/distribution operations, and recovery of tax dollars (CRA)
  - Participation in integrated proceeds of crime investigations and prosecutions (PSPC)
  - Financial intelligence to support investigations and prosecutions (FINTRAC)
  - Policy coordination on the implementation of international drug conventions; contribution funds to projects addressing drug issues in the Americas (GAC)
  - Case preparation and supervision (CSC)
  - Decisions on offender conditional release (PBC)
  - Criminal law reforms (Justice Canada)

Annex 3: Further Background on the Drug Situation in Canada

In addition to concerns about misuse of cannabis and prescription drugs, especially opioids, the following is of note:

- Past-year use by Canadians of one of the most commonly reported **other illicit drugs** (cocaine or crack, hallucinogens, ecstasy, speed/methamphetamines) was less than 1% in 2013.

- **Offences** associated with drug-related incidents tend to be minor, e.g., administration of justice offences and property offences. A weapon offence was involved in 14% of drug-related incidents and 11% were associated with a violent offence.

- Canada's demand for illicit drugs encourages production, trafficking and associated **violence and insecurity** among citizens not only in Canada, but also in producing and transit countries.

S E R V I N G C A N A D I A N S

[redacted]

Pages 35 to / à 42

are withheld pursuant to section

sont retenues en vertu de l'article

69(1)(g) re (d)

of the Access to Information Act

de la Loi sur l'accès à l'information

Department of Justice Canada | Ministère de la Justice Canada

FOR INFORMATION
NUMÉRO DU DOSSIER/FILE #:2016-020500
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: ***Atlantic Provinces Trial Lawyers Association v. The Right Honourable Prime Minister of Canada and the Governor General of Canada***

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- An association of lawyers in Atlantic Canada has brought a proceeding in the Nova Scotia Supreme Court to enforce, by way of a declaratory order, what it views as an enforceable constitutional convention that the upcoming appointee to the Supreme Court of Canada be from Atlantic Canada.
- [redacted] A mandatory motion for directions meeting will be held on October 5, 2016, with the Nova Scotia Supreme Court. At that meeting the court will deal with any preliminary motions, in terms of scheduling and setting dates for any such motions.
- [redacted]
- [redacted]

Soumis par (secteur)/Submitted by (Sector): National Litigation Sector

Responsable dans l'équipe du SM/Lead in the DM Team: Claudine Patry

Revue dans l'ULM par/Edited in the MLU by: Sarah McCulloch

Soumis au CM/Submitted to MO: 26 September 2016

Department of Justice Canada | Ministère de la Justice Canada

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FOR INFORMATION

2012-020500

MEMORANDUM FOR THE MINISTER

Atlantic Provinces Trial Lawyers Association v. The Right Honourable Prime Minister of Canada and the Governor General of Canada

ISSUE

An association of lawyers in Atlantic Canada has brought a proceeding in the Nova Scotia Supreme Court to enforce, by way of a declaratory order, what it views as an enforceable constitutional convention that the upcoming appointee to the Supreme Court of Canada be from Atlantic Canada.

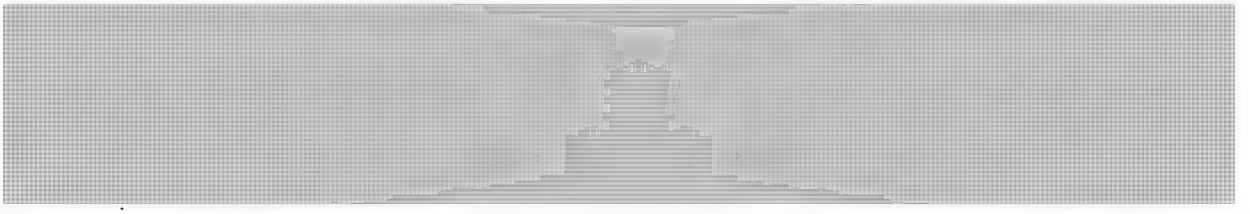
BACKGROUND

On September 19, 2016, the Atlantic Provinces Trial Lawyers Association (the applicants) filed a Notice of Application (NOA) in the Supreme Court of Nova Scotia (Annex 1). The NOA seeks:

> An order that the Right Honourable Prime Minister's proposed departure from the constitutional convention of regional representation on the Supreme Court of Canada by appointing a replacement for the Honourable Justice Thomas Cromwell from outside of Atlantic Canada constitutes an amendment to the Constitution of Canada engaging s. 41(d) of the *Constitution Act*, 1982, Schedule B to the *Canada Act 1982* (UK), 1982 c 11.

The grounds for the order include an announcement by the Prime Minister on August 2, 2016, that a new process will be used for selecting Supreme Court of Canada justices. The NOA also states that the new process will be used to fill the seat of the recently retired Justice Cromwell and that this seat has been "historically Atlantic Canada's seat on the Court". The NOA also references comments by the Minister of Justice in the House of Commons on August 11, 2016, that the appointee will not necessarily come from Atlantic Canada. Finally, the NOA sets out that regional representation on the Supreme Court is a constitutional convention and that the failure to appoint a judge from the Atlantic region would fundamentally change the composition of the Supreme Court without respecting the requirement of provincial consent under s. 41(d) of the *Constitution Act* and would alter the "architecture" of the Supreme Court of Canada.

CONSIDERATIONS



Pages 45 to / à 47

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23

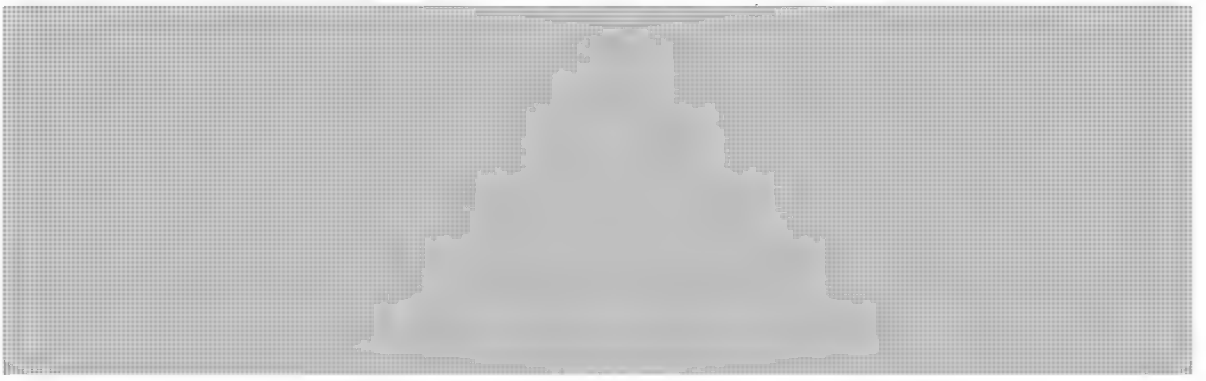
of the Access to Information Act

de la Loi sur l'accès à l'information

s.21(1)(a)

s.23

CONCLUSION



ANNEXES

Annex 1: Notice of Application dated September 19, 2016
Annex 2: Supporting affidavit of Ray Wagner dated September 19, 2016

PREPARED BY
Talitha A. Nabbali
Special Counsel and Advisor
National Litigation Sector
613-670-6354

ANNEX 1

Receipt acknowledged on behalf of
the Attorney General of Canada

Dated Sept 21, 2016

Signature

Court Administration
SEP 19 2016
Halifax, N.S.

Form 5.07

2016

No. 455561

Supreme Court of Nova Scotia

Between:

ATLANTIC PROVINCES TRIAL LAWYERS ASSOCIATION

Applicant

and

THE RIGHT HONOURABLE PRIME MINISTER OF CANADA and THE GOVERNOR GENERAL OF CANADA

Respondents

Notice of Application in Court

To: The Right Honourable Prime Minister of Canada and the Governor General of Canada

The applicant requests an order against you

The applicant is applying to the court for:

(a) an order declaring that the Right Honourable Prime Minister's proposed departure from the constitutional convention of regional representation on the Supreme Court of Canada by appointing a replacement for the Honourable Justice Thomas Cromwell from outside Atlantic Canada constitutes an amendment to the Constitution of Canada engaging s. 41(d) of the *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11;

(b) such further and other relief as counsel may advise and this Honourable Court may permit.

The applicant started this application by filing this notice on the date certified by the prothonotary.

Grounds for the order

The applicant is applying for the order on the following grounds:

1 On August 2, 2016, the Right Honourable Prime Minister Justin Trudeau announced a new process for appointing Supreme Court of Canada Justices (the "New Process").

2 The New Process will be used to fill the vacancy on the Supreme Court of Canada left by the September 1, 2016 retirement of the Honourable Justice Thomas Cromwell. The vacancy is historically Atlantic Canada's seat on the Court.

3 The August 4, 2016 Mandate Letter sent to members of the Independent Advisory Board for Supreme Court of Canada Judicial Appointments (the "Advisory Board") describes that from applications submitted by August 24, 2016, the Advisory Board will recommend to the Right Honourable Prime Minister, no later than September 23, 2016, a list of three to five candidates who are qualified, functionally bilingual and representative of the diversity of Canada.

4 The Honourable Justice Minister Jody Wilson-Raybould affirmed during an appearance before the House of Commons' Justice Committee on August 11, 2016, that the appointee will not necessarily come from Atlantic Canada, in departure from the constitutional convention of regional representation on the Supreme Court of Canada.

5 Regional representation as a constitutional convention has existed since the enactment of the *Supreme Court Act* in 1875. While the current version of the *Supreme Court Act*, RSC 1985, c S-26 ("*Supreme Court Act*") requires the appointment of at least three justices from Quebec (s. 6), as a matter of convention, three justices are also appointed from Ontario, two from Western Canada, and one from Atlantic Canada. Atlantic Canada has had at least one seat on the Supreme Court of Canada for the past 141 years.

6 The absence of a judge from one of the four Atlantic Provinces would fundamentally change the long-standing composition of Canada's highest Court. Such a change constitutes an amendment to the Constitution of Canada, invoking the constitutional requirement of provincial consent under the unanimous consent amending procedure in s. 41(d) of the *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11 ("*Constitution Act, 1982*"), described below. This is supported by (i) the wording of Part V of the *Constitution Act, 1982*; and (ii) the organizing principle of federalism as it relates to the Supreme Court of Canada's status as a constitutionally protected institution.

I. The *Constitution Act, 1982*, Expressly Requires Unanimous Consent for this Change

7 Essential features of the Supreme Court of Canada are constitutionally protected under Part V of the *Constitution Act, 1982*. Section 41 outlines those amendments to the Constitution that require unanimous consent. Specifically, s. 41(d) states:

> 41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:
>
> (...)
>
> (d) the composition of the Supreme Court of Canada; ...

8 Requiring unanimity for amendments relating to the composition of the Supreme Court of Canada reflects the fundamental importance of the matter (*Reference Re Supreme Court Act*,

2014 SCC 21 at paras 92, 93 ("*Supreme Court Act Reference*"); *Reference Re Senate Reform*, 2014 SCC 32 at para 41 ("*Senate Reform Reference*")).

9 The composition of the Supreme Court of Canada engages the interests of the federal government and the provinces, and is recognized as instrumental to its ability to function effectively and with sufficient institutional legitimacy as Canada's final court of appeal (*Supreme Court Act Reference*, at para 93).

10 The Constitution of Canada is defined in s. 52(2) of the *Constitution Act, 1982* as follows:

> 52. ...
>
> (2) The Constitution of Canada includes
>
> (a) the *Canada Act 1982*, including this Act;
>
> (b) the Acts and orders referred to in the schedule; and
>
> (c) any amendment to any Act or order referred to in paragraph (a) or (b).
>
> [Emphasis added].

11 Section 52 does not provide an exhaustive definition of the content of the Constitution of Canada, and it has long been recognized that the constitution also "embraces unwritten, as well as written rules", including constitutional conventions (*Senate Reform Reference*, at para 24; *Supreme Court Act Reference*, at paras 97-100; *Reference re Secession of Quebec*, [1998] 2 SCR 217 at para 32 ("*Secession Reference*")).

12 In the *Senate Reform Reference*, the Attorney General argued that implementing consultative elections for Senators was not an amendment to the Constitution of Canada, as this reform would not change the text of the *Constitution Act, 1867*, nor the means of selecting Senators.

13 The Court rejected this proposition at paragraph 52, writing:

> 52 In our view, the argument that introducing consultative elections does not constitute an amendment to the Constitution privileges form over substance. It reduces the notion of constitutional amendment to a matter of whether or not the letter of the constitutional text is modified. This narrow approach is inconsistent with the broad and purposive manner in which the Constitution is understood and interpreted, as discussed above. While the provisions regarding the appointment of Senators would remain textually untouched, the Senate's fundamental nature and role as a complementary legislative body of sober second thought would be significantly altered.

14 Similarly, though departure from the constitutional convention of regional representation on the Supreme Court of Canada would not alter constitutional text, the appointment of a judge from outside the Atlantic Provinces would change the long-standing composition of the Supreme Court, a fundamental aspect of which includes representation of all regions of Canada. Amendments to the Constitution are not confined to textual changes (*Senate Reform Reference*, at paras 27), and such a modification constitutes an amendment to the Constitution that cannot be achieved unilaterally by Parliament.

II. Removing Representation from an Entire Region Would Fundamentally Alter the Architecture of the Supreme Court of Canada and its Role Within the Federal System

15 Constitutional interpretation must be informed by the foundational principles of the Constitution, which include the principles of federalism, democracy, the protection of minorities, as well as constitutionalism and the rule of law (*Secession Reference*).

16 The principle of federalism has exercised a role of considerable importance in the interpretation of the Constitution, and is a fundamental organizing theme that runs through the political and legal systems of Canada (*Secession Reference*, at para 57).

17 The Supreme Court of Canada plays a central role in the functioning of legal systems within each province and, more broadly, in the development of a unified and coherent Canadian legal system (*Supreme Court Act Reference*, at paras 76, 85, 87; *Senate Reform Reference*, at para 52).

18 As the entity at the apex of the Canadian judicial system, the Supreme Court of Canada is essential under the Constitution's architecture, and by regulating and settling legal questions nationwide, including those involving the interests of the four Atlantic Canadian Provinces, it is a core component of the Canadian federal structure of government (*Supreme Court Act Reference*, at paras 87, 88).

19 Representation from Atlantic Canada on this nation's highest Court is necessary to sustain the confidence of the four Atlantic provinces in the Supreme Court of Canada, and to have their interests represented within the federal structure.

20 Departure from the constitutional convention of regional representation on the Supreme Court of Canada changes the architecture of the Court, and disregards the fundamental role of federalism underlying both the interpretation of the Constitution, and the formation of the Court itself as an institution within the federal scheme. It is an amendment to the Constitution of Canada in relation to the composition of the Supreme Court of Canada, and thereby invokes the unanimous consent amending procedure, s. 41(d) of the *Constitution Act, 1982*.

III. Statutory Provisions

21 *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11, ss. 41, 52;

22 *Supreme Court Act*, RSC 1985, c S-26; and

23 Such further and other grounds as counsel may advise and this Honourable Court may permit.

Witnesses for applicant

The applicant expects to file affidavits from the following witnesses, dealing with the following subjects:

Name of witness	*Subject*

Motion for directions and date

At [*a.m./p.m.*] on , 20 , the applicant will appear before a judge in Chambers at the [*Law Courts/Courthouse*] , Street, , Nova Scotia to make a motion for an order giving directions and appointing a time, date and place for the hearing. The judge may provide directions in your absence, if you or your counsel fail to attend.

Affidavit on motion for directions

The applicant files the affidavit of Raymond F. Wagner, Q.C., sworn on September 19, 2016, as evidence on the motion for directions. A copy of the affidavit is delivered to you with this notice.

You may participate

You may file with the court a notice of contest, and any affidavit for the motion for directions, no less than five days before the day of the hearing. Filing the notice of contest entitles you to notice of further steps in the application.

Possible final order against you

The court may grant a final order on the application without further notice to you if you fail to file a notice of contest, or if you or your counsel fail to appear at the time, date, and place for the motion for directions.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the prothonotary, 1815 Upper Water Street, Halifax, Nova Scotia (telephone #902-424-4900).

When you file a document you must immediately deliver a copy of it to the applicant and each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

Contact information

The applicant designates the following address:

Raymond F. Wagner, Q.C.
Wagners
1869 Upper Water Street
Suite PH301
Halifax, NS B3J 1S9

Documents delivered to this address are considered received by the applicant on delivery.

Further contact information is available from the prothonotary.

Signature

Signed September 19, 2016

RAYMOND F. WAGNER, Q.C.

Prothonotary's certificate

I certify that this notice of application was filed with the court on , 20 .

Prothonotary

ANNEX 2

2016 Hfx. No. 455561

Supreme Court of Nova Scotia

Between:

ATLANTIC PROVINCES TRIAL LAWYERS ASSOCIATION

Applicant

and

THE RIGHT HONOURABLE PRIME MINISTER OF CANADA and THE GOVERNOR GENERAL OF CANADA

Respondents

Application under Rule 5.07

AFFIDAVIT OF RAYMOND F. WAGNER, Q.C.

I, Raymond F. Wagner, Q.C., of the City of Halifax, in the Province of Nova Scotia, make oath and give evidence as follows:

1 I am counsel for the Applicant in the within application.

2 This affidavit is provided in support of the Applicant's motion for directions filed within the herein Notice of Application (the "Application") with the Supreme Court of Nova Scotia in accordance with Rule 5.07 of the *Civil Procedure Rules* and for no other or improper purpose.

3 Full details of the material facts and legislation or points of law relied upon are set out in the Notice of Application.

4 There are likely persons who are not parties but who have an interest in the matter raised by the Application given that the Application raises a matter of public importance, and involves interpretation of Part V of the *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11 ("*Constitution Act, 1982*").

5 We do not expect to file affidavits of any witnesses.

6 There has been no disclosure of documents or electronic information to the Respondents. The Applicant will complete such disclosure as this Honourable Court directs.

7 At present, the Applicant does not anticipate the need to discover any witnesses.

8 The Application concerns events that are currently unfolding. As described in more detail in the Notice of Application, the Application stems from the Right Honourable Prime Minister Justin Trudeau's announcement on August 2, 2016, of a new process for appointing Supreme Court of Canada Justices.

9 The first appointment made under this new process will fill the position that became vacant on September 1, 2016, upon the retirement of the Honourable Justice Thomas Cromwell.

10 The Honourable Justice Minister Jody Wilson-Raybould confirmed during an appearance before the House of Commons' Justice Committee on August 11, 2016, that the appointee will not necessarily come from Atlantic Canada.

11 This potential change would mark a departure from the long-standing constitutional convention of regional representation on the Supreme Court of Canada.

12 Under the new appointment process, a short list of candidates are to be provided to the Prime Minister no later than September 23, 2016, from which he will thereafter select the next Supreme Court of Canada appointee.

SWORN BEFORE ME at the City of Halifax, Province of Nova Scotia, on this 19 day of September, 2016.

[redacted]

A Notary Public in and for the Province of Nova Scotia

LOREATHA J. BOEHNER
A Barrister and Commissioner of
the Supreme Court of Nova Scotia

[redacted]

RAYMOND F. WAGNER, Q.C.

Department of Justice Canada | Ministère de la Justice Canada

FOR INFORMATION
NUMÉRO DU DOSSIER/FILE #: 2016-019709
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: Chief Justice Heather Smith's Call for Prompt Judicial Appointments

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- In her remarks at the Opening of the Courts in Toronto on September 13, 2016, Chief Justice Heather Smith made a public request that the Minister of Justice promptly fill judicial vacancies.
- The Chief Justice specifically stated that the Court "cannot meet the *Jordan* requirements without a full judicial complement" and noted that 10 vacancies remain in Ontario.
- [redacted]

Soumis par (secteur)/Submitted by (Sector): National Litigation Sector

Responsable dans l'équipe du SM/Lead in the DM Team: Claudine Patry

Revue dans l'ULM par/Edited in the MLU by: Matt Ignatowicz

Soumis au CM/Submitted to MO: September 21, 2016

s.23

Department of Justice Canada | Ministère de la Justice Canada

Protected B
FOR INFORMATION

2016-019709

MEMORANDUM FOR THE MINISTER

Chief Justice Heather Smith's Call for Prompt Judicial Appointments

ISSUE

At the Opening of the Courts in Toronto on September 13, 2016, Chief Justice Heather Smith made a public request that the Minister of Justice promptly fill judicial vacancies.

BACKGROUND

For the last several years, at the Opening of the Courts, the Chief Justice has taken the opportunity to publicly and/or privately request that the Minister of Justice fill judicial vacancies urgently.

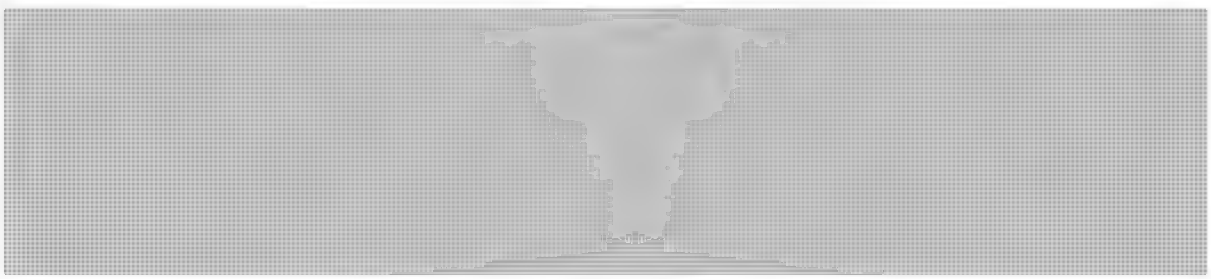
In her September 13, 2016 speech, the Chief Justice thanked the Minister for the five appointments made in June but noted ten vacancies still exist, including a position that has been vacant for 18 months. See Annex 1.

The Chief Justice also noted the impact of the Supreme Court of Canada's decision in *R v Jordan* on the criminal courts and their ability to complete criminal trials within mandated timelines.

Following the ceremony, the Chief Justice spoke privately with the Minister's representative, Michael Morris, and urged him to pass along her concerns personally.

CONSIDERATIONS

The Chief Justice has regularly requested the Minister's support in making timely judicial appointments. This year however, she specifically referenced the impact of the 2016 *Jordan* decision.



In her remarks, the Chief Justice stated that the Superior Court of Justice "cannot meet the *Jordan* requirements without a full judicial complement" and noted that ten vacancies remain in Ontario.

CONCLUSION

[redacted]

ANNEXES

Annex 1: Remarks of Chief Justice Heather Smith, Superior Court of Justice, Opening of the Courts, Toronto, September 13, 2016

Annex 2: Briefing Note: Supreme Court of Canada Decisions *R. v. Jordan and R. v. Williamson*

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Annex 1

From the Court's website: http://www.ontariocourts.ca/scj/news/speeches/oc/

REMARKS OF CHIEF JUSTICE HEATHER SMITH
SUPERIOR COURT OF JUSTICE
OPENING OF THE COURTS
TORONTO, SEPTEMBER 13, 2016

- Chief Justices
- Judicial colleagues – all
- Mr. Attorney
- Treasurer
- Michael Morris, on behalf of the Minister of Justice
- Members of the Bar, paralegals
- Distinguished guests.

Je vous souhaite, à tous et à toutes, la bienvenue à l'occasion du début de cette nouvelle année judiciaire. It is my pleasure, once again, to join with the justice community in the Opening of the Courts ceremony.

This year, unlike most other years, the Superior Court of Justice's executive has no new faces. Our Associate Chief Justice, our Senior Family Judge and all our Regional Senior Judges have continued to effectively manage our court and provide their excellent advice to me.

Our justice partners, however, *do* have new leaders: new Attorney General of Canada, Jody Wilson-Raybould; new Attorney General for Ontario, Yasir Naqvi; new ADAG of Court Services Division, Sheila Bristo; and new Treasurer of the Law Society, Paul Schabas. I want to extend my best wishes to each of them for successful terms in their respective new positions. Our court looks forward to working with them on the numerous important issues that face the justice system in Ontario, going forward.

Over the past year, the Superior Court concluded the initiatives we started in the years before and we have kept the promises I made here one year ago. We finalized and implemented our "best practices" in all areas of the court's work – family, child protection, civil and criminal – to improve the effectiveness of judicial scheduling and judicial case management. The Superior Court issued a series of new Practice Directions, to ensure the bar and litigants would do their part to adhere to these best practices.

This year, we believe we delivered a more accessible and efficient court system. We also prided ourselves on our capacity to act quickly when the legal landscape shifted – as it so often does. One of these seminal shifts came when the Supreme Court of Canada extended the government's time to pass new legislation for physician assisted death. As part of that decision, the Supreme Court said that a party could apply to provincial superior courts for an order authorizing a physician assisted death.

Led by a few very experienced judges, our court swiftly drafted a Practice Advisory to guide lawyers and parties through the court application process for such orders. Courts across the country looked to our court's initiative in crafting their own practices that followed. As we expected, not everyone agreed with every aspect of our Advisory, but we received real praise for our leadership on this important issue. I was also extremely proud of how responsive our judges were in quickly hearing 13 urgent applications, each within 7 days. Then, they rendered the most thoughtful and prompt reasons for their decisions, within 24 hours in each case.

Annex 1

From the Court's website: http://www.ontariocourts.ca/scj/news/speeches/oc/

In partnership with CLEO [Community Legal Education Ontario], we produced a wonderful, plain language, bilingual guide to Superior Court family proceedings for self-represented Family litigants.

Again, with Family litigants in mind, the Superior Court, the Ontario Court and the Ontario Attorney General have all indicated unqualified support to pursue Unified Family Court expansion, afresh. I understand that we also have the federal Minister's support, which is essential. Over the past several months, the two trial courts have collaborated to identify all sites that will allow immediate expansion of the Family Court, and the judicial complement to support them. The ultimate goal is a fully resourced UFC site at every Superior Court location throughout the province, by 2025.

On a different note, the past year's efforts to maximize our court's scheduling efficiencies have been successful. We worked diligently to strike the right balance between the exigencies of scheduling criminal cases and scheduling family cases. We also remained vigilant to assign appropriate judicial resources to important and urgent civil matters.

Then, in July, the legal landscape changed once more. The Supreme Court of Canada's decision in the *R. v. Jordan* revised the constitutional timelines required to complete trials in criminal cases. The Jordan timelines *must* be *met*, and the Superior Court of Justice embraces this challenge. We have already begun re-examining and refining everything within our own authority to meet the new timelines. In the short term, the court must accommodate new s.11(b) applications that may be brought. On September 1st, the Court enacted a new practice direction to ensure that these applications are scheduled and conducted fairly and effectively by (i) clarifying what supporting materials are required for these applications; and, (ii) requiring that all such applications be heard at least 60 days in advance of the trial. In the longer term, the court must dedicate the significant judicial resources needed to proactively monitor and manage complex criminal cases, to ensure they meet the new timelines.

How will we meet the challenge of completing criminal trials within the timelines mandated in the Jordan case?

First and foremost, we cannot meet the Jordan requirements without a full judicial complement. I thank the Minister of Justice for the five excellent and most welcome judicial appointments to our court that were made in June of this year. In spite of those appointments, we presently have 10 vacancies, half of which are here in Toronto. One of our judicial vacancies has existed for 18 months. Respectfully, I must continue to press the Minister of Justice, to fill our court's current judicial vacancies, and to fill new vacancies promptly when they arise.

We must also have modern court administration and modern courtrooms. And, here, I turn to you Mr. Attorney. We urgently need the technology that can expedite the administrative and "in-court" steps in all areas of the court's work. Our judges are encouraged, however, by your recent strong public commitment to improve court technology.

If judges and registrars could access case management information in the courtroom; if judges could issue signed orders from the courtroom; if judges and the Bar could access legal research with Wi-Fi from the courtroom; if reliable teleconferencing and videoconferencing were available in principal courtrooms; if all of these tools were available to our judges across the province, I am certain we would generate efficiencies to consistently meet tighter timelines.

Perhaps we were prescient, or perhaps just lucky, when our court began to seriously examine its modernization needs almost one year ago. We formed a judicial Modernization Committee to examine the court's modernization needs and to meet with the ADAG of the Ministry's Court Services Division to press those necessities. The Ministry has a new Modernization Division, headed by ADAG Lynn Norris, and Court Services Division has a modernization plan. Its plans for court

technology have great promise, but the pace of delivery is simply far too slow! In the wake of the Jordan case, I strongly urge you, Mr. Attorney, to greatly hasten the pace.

The court will work with the all of its justice system partners to find new ways to reduce the time required for each step in a criminal case. Both the Crown and defence have a role to play in ensuring the timely disposition of criminal cases. In a world of finite resources, Crown counsel have a particularly important role to play. The Crown has wide discretion to decide which cases and which charges will be pursued; whether they will proceed by indictment or summary conviction; how those cases will be prosecuted; and how they are prioritized. I am confident that the federal Justice Minister and the Ontario Attorney General will ensure their Crowns have the resources and the support they need to discharge this difficult, but absolutely critical responsibility.

The Superior Court will meet every new challenge presented. We must! As Chief Justice, I am so fortunate to have the solid support of the Court's executive to help steer timely responses to these challenges. I am also grateful for the dedication demonstrated by every judge on this court in their efforts to meet the workload and to serve the public. Here, I pause to tell you just a brief anecdote.

On a hot Saturday in August, the computer server for the Brampton Courthouse inadvertently crashed, with abysmal consequences for three Superior Court judges who had been drafting jury charges in their courthouse chambers that day. I know those judges were enormously and justifiably frustrated. Nonetheless, on that beautiful summer weekend, they just rolled up their sleeves a little higher, and completed (or entirely re-wrote) their jury charges by long hand.

In tackling each new and difficult issue that arises, I become more heartened by the true partnerships that our justice sector counterparts continue to forge with us. Some challenges are so complex – and the consequences of failing to address them are so great – that they must be met through sustained, committed and collaborative effort across the justice system. Remarkably, this is exactly what is occurring, as the entire justice sector, together with Canadian institutions, move to address the hardships and injustices suffered by our indigenous peoples.

The Right Honourable Beverly McLachlin, Chief Justice of Canada, has repeatedly stated that reconciliation between Canada's indigenous population and other Canadians is one of the most pressing issues that the justice system will face in the decades to come.

The Prime Minister has committed to bringing indigenous people into all government conversations. This is reflected in his public mandate letter to every federal minister, including the federal Minister of Justice.

Our court has been diligently engaged on these issues too. Since last May, we have been planning our court's judicial Fall Conference, themed on indigenous legal issues in the different areas of our court's work. This conference and its theme emerged in the wake of the Truth and Reconciliation Commission's "calls to action" (June 2015). The executive of all three courts recently met with the highly-regarded ADAG of the Aboriginal Justice Division, Kimberly Murray, to discuss how the Ontario government will implement its response to the Commission's calls to action. Further, our court has accepted Ms. Murray's invitation to send judicial representatives to a Gladue summit her division will hold this fall, in Thunder Bay.

The collaborative partnerships we forge among different justice sector partners on all important issues – from constitutional case timelines, to court modernization, to indigenous legal issues – is the strength of our system.

This court values and assiduously safeguards the *individual independence* of each of our judges to fairly and impartially decide each case they hear. But we also understand that, at the *institutional level*, we are stronger when we join together with other courts, with other branches of government, with the Bar, and pro bono organizations. Ensemble, nous sommes vraiment plus fort!

Annex 1

From the Court's website: http://www.ontariocourts.ca/scj/news/speeches/oc/

Through dialogue and cooperation we will ensure effective access to justice, the efficient administration of justice, and adherence to the rule of law. This is how, collectively, we will meet the challenges of a perpetually-shifting legal landscape. This is how we will succeed!

Thank you. Merci.

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Department of Justice Canada | Ministère de la Justice Canada

FOR INFORMATION
NUMERO DU DOSSIER/FILE #: 2016-015739
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: Supreme Court of Canada Decisions *R. v. Jordan and R. v. Williamson*

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- This note provides an overview of the Supreme Court of Canada (SCC) decisions in *R. v. Jordan* and *R. v. Williamson* and their potential impact.
- In *Jordan,* the majority decision (the court split 5/4) created a new framework for determining unreasonable delay under paragraph 11(*b*) of the *Canadian Charter of Rights and Freedoms.* It set presumptive ceilings on the time it should take to bring an accused person to trial: 18 months for cases proceeding to trial in provincial court, and 30 months in superior court. It also provided a transitional, contextual approach for cases currently in the system.
- The minority was highly critical of the departure from the case-specific framework (established in the SCC case *R. v. Morin* in 1992), finding the new presumptive ceilings "wrong in principle and unwise in practice". It cautioned that the new framework could lead to the staying of thousands of charges.
- [redacted]
- [redacted]

Soumis par (secteur)/Submitted by (Sector): Policy Sector

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Soumis au CM/Submitted to MO: July 18, 2016

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FOR INFORMATION

2016-015739

MEMORANDUM FOR THE MINISTER

Supreme Court of Canada Decisions *R. v. Jordan and R. v. Williamson*

ISSUE

This note provides an overview of the Supreme Court of Canada (SCC) decisions in *R. v. Jordan* and *R. v. Williamson* and their potential impact.

BACKGROUND

The SCC companion decisions in *Jordan* and *Williamson* were handed down on July 8, 2016, and are attached as Annexes 1 and 2 respectively.

In *Jordan,* the majority decision (written by Justices Moldaver, Karakatsanis, and Brown, and agreed to by Justices Abella and Côté) revised the analysis for unreasonable delay under paragraph 11(*b*) of the *Canadian Charter of Rights and Freedoms* (right to be "tried within a reasonable time") departing from the well-established framework for case-specific analysis set out by the SCC in *R. v. Morin*, 1992. The majority sets out presumptive numerical ceilings on the time it should take to bring an accused person to trial: 18 months for cases proceeding to trial in provincial court, and 30 months in superior court (or in provincial court with a preliminary inquiry). The court held that the ceilings were necessary to simplify the analysis, "foster incentives" and to combat "complacency" on the part of all players in the criminal justice system.

Should a trial proceed beyond these ceilings, the delay is presumed to be unreasonable and a stay will follow unless the Crown establishes "exceptional circumstances" (discrete events beyond the control of the Crown that are unforeseeable and cannot be remedied, which includes the inherent complexity of a case). For cases below the ceilings, the burden will be on the defence to establish unreasonable delay.

The court allowed a contextual application of the new framework for cases currently in the system to avoid a post-*Askov*[1] situation where thousands of charges were stayed due to the abrupt change in the law.

Applying the new framework to the facts in *Jordan*, the court found that that a 49.5 month delay between drug possession and trafficking charges being laid and Mr. Jordan's trial in a British Columbia Superior Court was unreasonable contrary to paragraph 11(*b*) of the Charter. The Court set aside the accused's convictions, and directed a stay of proceedings.

The minority (Cromwell J., writing with McLachlin C.J., Wagner and Gascon JJ) was highly critical of the departure from the *Morin* case-specific framework, finding the presumptive

[1] In *R v. Askov* (1990), the SCC first established the criteria for a section 11(*b*) violation. The Supreme Court revisited and revised the test for unreasonable delay in *R. v. Morin*.

ceilings "wrong in principle and unwise in practice", unsupported by the record before the court and a matter for Parliament and not the courts to establish. The minority retained the *Morin* framework but provided a "reorientation" and clarification of the analysis. The minority cautioned that the new framework may lead to the staying of thousands of charges.

[redacted] a list of the evidence and data presented by the parties to the SCC (taken from their respective pleadings) are attached as Annexes 3 and 4 respectively.

In the companion case *Williamson*, the majority (Abella, Moldaver, Karakatsanis, Côté and Brown JJ.) applied the new *Jordan* framework to a case of historical sexual assault tried in the Ontario Superior Court. It found that the total delay of 35.5 months infringed the accused's right to be tried within a reasonable time under paragraph 11(*b*) of the Charter. The majority also found the delay unreasonable under the transitional, exceptional circumstances assessment. McLachlin C.J. concurred in the result, but applied the minority's revised *Morin* framework as set out in *Jordan*. In dissent, Cromwell, Gascon and Wagner JJ., applying the revised *Morin* framework, would have found the delay reasonable under the circumstances, including the seriousness of the charges at issue.

CONSIDERATIONS

[redacted]

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de la Loi sur l'accès à l'information

[redacted]

CONCLUSION

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ANNEXES

Annex 1: *R. v. Jordan*
Annex 2: *R. v. Williamson*
Annex 3: [redacted]
Annex 4: Evidence before the Court in *R. v. Jordan*
Annex 5: [redacted]

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SUPREME COURT OF CANADA

CITATION: R. *v.* Jordan, 2016 SCC 27

APPEAL HEARD: October 7, 2015
JUDGMENT RENDERED: July 8, 2016
DOCKET: 36068

BETWEEN:

Barrett Richard Jordan
Appellant

and

Her Majesty the Queen
Respondent

- and -

Attorney General of Alberta,
British Columbia Civil Liberties Association and
Criminal Lawyers' Association (Ontario)
Interveners

CORAM: McLachlin C.J. and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ.

JOINT REASONS FOR JUDGMENT: (paras. 1 to 141)	Moldaver, Karakatsanis and Brown JJ. (Abella and Côté JJ. concurring)
REASONS CONCURRING IN THE RESULT: (paras. 142 to 303)	Cromwell J. (McLachlin C.J. and Wagner and Gascon JJ. concurring)

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SUPREME COURT OF CANADA

CITATION: R. *v.* Williamson, 2016 SCC 28

APPEAL HEARD: October 7, 2015
JUDGMENT RENDERED: July 8, 2016
DOCKET: 36112

BETWEEN:

Her Majesty the Queen
Appellant

and

Kenneth Gavin Williamson
Respondent

- and -

Attorney General of Alberta,
British Columbia Civil Liberties Association and
Criminal Lawyers' Association (Ontario)
Interveners

CORAM: McLachlin C.J. and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ.

JOINT REASONS FOR JUDGMENT: (paras. 1 to 39)	Moldaver, Karakatsanis and Brown JJ. (Abella and Côté JJ. concurring)
REASONS CONCURRING IN THE RESULT: (paras. 40 to 42)	McLachlin C.J.
DISSENTING REASONS: (paras. 43 to 86)	Cromwell J. (Wagner and Gascon JJ. concurring)

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Annex 4: Evidence Before the Supreme Court of Canada

Re. Delay in *R. v. Jordan* 2016 SCC 27

The materials submitted to the SCC included reports concerning delay issues in specific jurisdictions (e.g., reports from provincial governments and courts tracking local/regional delay), as well as more general statistics and previous comprehensive studies of the issue (e.g., the 2008 Lesage-Code report regarding large and complex criminal cases, the 2006 report of the Steering Committee on Justice Efficiencies, etc.).

The parties also submitted reported trial-level decisions describing local delay conditions and/or common reasons for delay (e.g., lack of judges, scheduling practices, insufficient screening or narrowing of issues by counsel, last-minute cancellations of scheduled trials, etc.)

While these materials formed a significant record, the minority was nonetheless concerned that there was not comprehensive national statistical evidence before the court to justify the majority's decision to fundamentally change the paragraph 11(b) framework.

Reports and Studies:

Report	Party/Intervenor	Link:
Provincial Court of British Columbia, *The Semi-Annual Time to Trial Report of the Provincial Court of British Columbia to March 31, 2015* (2015)	Attorney General of Alberta	http://www.provincialcourt.bc.ca/downloads/pdf/Time%20to%20Trial%20-%20Update%20(as%20at%20March%2031,%202015).pdf
Alberta Justice and Solicitor General, Injecting a Sense of Urgency: A New Approach to Delivering Justice in Serious and Violent Criminal Cases (2013, updated 2014)	Attorney General of Alberta, BCCLA	https://justice.alberta.ca/programs_services/criminal_pros/Documents/InjectingSenseUrgency.pdf [initial]; https://justice.alberta.ca/programs_services/criminal_pros/Documents/InjectingSenseUrgencyFinalReport_2014-12-01.pdf [final report]
Adrian Humphreys, "The System is Sick: Canada's courts are choking on an increase in evidence," *National Post* (3 May 2013)	Attorney General of Alberta	http://news.nationalpost.com/news/canada/canadas-courts-are-choking-on-an-increase-in-evidence
Samuel Perreault, *Impaired Driving in Canada, 2011* (2013) 33:1 Juristat 1	Criminal Lawyers Association – Ontario	http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11739-eng.pdf
Provincial Court of British Columbia, *Justice Delayed: A Report on the Provincial Court of British Columbia Concerning Judicial Resources* (2010)	Appellant, Attorney General of	http://bcgeu.bc.ca/sites/default/files/Justice_Delayed_-_A_Report_of_the_Provincial_Court_of_British_Columbia_C

	Alberta, BCCLA	oncerning_Judicial_Resource.pdf
Provincial Court of British Columbia, *Time to Trial: Updates* (2011)	Appellant, Attorney General of Alberta, BCCLA	http://www.provincialcourt.bc.ca/downloads/pdf/Time%20to%20Trial%20-%20Update%20September%202011.pdf
BC Justice Reform Initiative, *A Criminal Justice System for the 21st Century: Final Report to the Minister of Justice and Attorney General* (2012)	BCCLA	http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/justice-reform-initiatives/cowperfinalreport.pdf
Statistics Canada, *Adult Criminal Court Statistics, 2008/2009*, Jennifer Thomas (Ottawa, Statistics Canada, 2008/2009)	Attorney General of Alberta, Criminal Lawyers Association – Ontario	http://www.statcan.gc.ca/pub/85-002-x/2010002/article/11293-eng.htm
Attorney General of Ontario, *Report of the Review of Large and Complex Criminal Case Procedures* (2008) (Lesage-Code Report)	Attorney General of Alberta	http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/lesage_code/
Michael Code, *Law Reform Initiatives Relating to the Megatrial Phenomenon* (2008, International Society for the Reform of Criminal Law)	Attorney General of Alberta	N/A
Newfoundland and Labrador, *Report of the Task Force on Criminal Justice Efficiencies* (2008)	BCCLA	http://www.justice.gov.nl.ca/just/publications/report_on_criminal_justice_efficiencies.pdf
Bruce McFarlane, *Structural Aspects of Terrorist Mega-Trials: A Comparative Analysis* (2007)	Attorney General of Alberta	N/A
The Hon. Justice Beverley McLachlin, P.C., *The Challenges We Face,* Speech delivered at the Empire Club of Canada March 8, 2007	Attorney General of Alberta	http://speeches.empireclub.org/62973/data?n=1
Department of Justice of Canada, *Final Report on Early Case Consideration of the Steering Committee on Justice Efficiencies and Access to the Justice System* (2006)	BCCLA	http://www.justice.gc.ca/eng/rp-pr/csj-sjc/esc-cde/pdf/ecc-epd.pdf
The Hon. Justice Michael Moldaver, *Long Criminal Trials: Masters of a*	Attorney General of Alberta	N/A

System They Are Meant to Serve (2005) 32 CR (6th) 316		
Sylvain Tremblay, *Impaired Driving in Canada, 1996* (1997) 17:12 Juristat 1	Criminal Lawyers Association – Ontario	http://publications.gc.ca/Collection-R/Statcan/85-002-XIE/0129785-002-XIE.pdf
Canada, Department of Justice, *Trial within a Reasonable Time: A Working Paper Prepared for the Law Reform Commission of Canada*	Criminal Lawyers Association – Ontario	http://publications.gc.ca/site/eng/39681/publication.html

Delay-Related Case Law (regarding practical issues, not the legal framework):

Decision	Party/Intervenor	Link:
R. v. Ayers 2010 BCPC 86	Appellant	http://canlii.ca/t/2b62v
R. v. Blatter 2012 BCPC 35	Appellant	http://canlii.ca/t/fqclz
R. v. Brickman 2010 ONCJ 690	Criminal Lawyers Association - Ontario	N/A
R. v. Duszak 2013 ONCJ 586	Criminal Lawyers Association - Ontario	http://canlii.ca/t/g1w4v
R. v. Garcia 2008 CarswellOnt 28	Criminal Lawyers Association - Ontario	N/A
R. v. Ghislieri 2010 BCPC 321	Appellant	http://canlii.ca/t/2f018
R. v. Hamilton 2010 ONCJ 465	Criminal Lawyers Association - Ontario	http://canlii.ca/t/2czpg
R. v. Khoia 2010 CarswellOnt 11270	Criminal Lawyers Association - Ontario	N/A
R. v. Lahiry 2011 ONSC 6780	Attorney General of Alberta	http://canlii.ca/t/fntws
R. v. Lore 2013 ONCJ 439	Criminal Lawyers Association - Ontario	http://canlii.ca/t/g01xv

R. v. Nguyen 2010 ONCJ 116	Criminal Lawyers Association - Ontario	http://canlii.ca/t/2937z
R. v. McComber 2010 BCPC 255	Appellant	http://canlii.ca/t/2d3r7
R. v. Pridy 2011 BCPC 325	Appellant	http://canlii.ca/t/fp0zh

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